

AMENDED IN ASSEMBLY MAY 16, 2001

AMENDED IN ASSEMBLY APRIL 30, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

## ASSEMBLY BILL

**No. 653**

**Introduced by Assembly Member Horton**

February 22, 2001

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An act to amend Section 48900 of the Education Code, and to amend Sections 241.2, 243.2, and 246.3 of, and to add Section 245.4 to, the Sections 241.2 and 243.2 of the Penal Code, and to add Section 729.6 to the Welfare and Institutions Code, relating to crime.

### LEGISLATIVE COUNSEL'S DIGEST

AB 653, as amended, Horton. Crime: minors: schools.

Existing law specifies those acts for which a pupil may be suspended from school or recommended for expulsion.

This bill would, in addition, include the act of aiding, abetting, or encouraging, the infliction, attempted infliction, or threatened infliction of physical injury to another person *as an act for which a pupil may be suspended, but not expelled*.

Existing law provides that an assault committed on school property against any person is punishable by a fine not exceeding \$2,000, or by imprisonment in a county jail not exceeding one year, or by both such fine and imprisonment.

This bill would instead provide that the fine could not exceed \$5,000. This bill would also require that where the assault was committed by a minor, the minor be ordered by the court to undergo ~~anger management~~

counseling, with the cost of counseling to be borne by the minor's parents, as specified.

Existing law provides that a battery committed on school property against any person is punishable by a fine not exceeding \$2,000, or by imprisonment in a county jail not exceeding one year, or by both such fine and imprisonment.

This bill would provide that the fine could not exceed \$5,000. This bill would also require that where the battery was committed by a minor, the minor be ordered by the court to undergo ~~anger management~~ counseling, with the cost of counseling to be borne by the minor's parents, as specified.

~~Existing law generally proscribes the offenses of assault with a deadly weapon, including an assault with a firearm.~~

~~This bill would, in addition, provide that an assault upon a minor on school grounds, or coming or going to school, as specified, would be punishable by a term of imprisonment in a county jail for not less than 6 months, nor more than one year, or imprisonment in the state prison for 3, 4, or 5 years, or by a fine not exceeding \$10,000, or by both imprisonment and fine. This bill would also provide where the above-described assault involved a firearm, it would be punishable by a term of imprisonment in a county jail for not less than 6 months, nor more than one year, or imprisonment in the state prison for 4, 6, or 8 years, or by a fine not exceeding \$10,000, or by both imprisonment and fine.~~

~~By creating new crimes, this bill would impose a state-mandated local program.~~

~~Existing law provides that, unless authorized, any person who willfully discharges a firearm in a grossly negligent manner that could result in injury or death to a person is guilty of an offense punishable by imprisonment in a county jail not exceeding one year, or by imprisonment in the state prison.~~

~~This bill would, in addition, provide that any person who, unless authorized, willfully discharges a firearm from a motor vehicle in a grossly negligent manner that could result in injury or death to a person is guilty of an offense punishable by imprisonment in the state prison for 2, 3, or 5 years.~~

~~By changing the definition of an existing crime, this bill would impose a state-mandated local program.~~



Existing law provides that any person who is under the age of 18 years when he or she violates any law or ordinance defining crimes, as specified, is within the jurisdiction of the juvenile court.

This bill would, in addition, provide that where persons are subject to the jurisdiction of the juvenile court by reason of the commission of an assault or battery on school grounds, as specified, the court shall, in addition to any other fine, sentence, or as a condition of probation, order the minor to attend ~~anger management~~ counseling at the expense of the minor's parents, as specified.

This bill would also require the Department of Justice to conduct a public awareness campaign regarding assaults on school grounds generally, and the new penalties for that offense imposed by the bill. Operation of the provisions requiring the campaign would be contingent upon an appropriation in the Budget Act.

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: ~~yes~~ *no*.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 48900 of the Education Code is
- 2 amended to read:
- 3 48900. A pupil may not be suspended from school or
- 4 recommended for expulsion unless the superintendent or the
- 5 principal of the school in which the pupil is enrolled determines
- 6 that the pupil has committed an act as defined pursuant to one or
- 7 more of subdivisions (a) to (o), inclusive:
- 8 (a) (1) Caused, attempted to cause, or threatened to cause
- 9 ~~physical injury to another person or aided, abetted, or encouraged,~~
- 10 ~~the infliction, attempted infliction, or threatened infliction of~~
- 11 ~~physical injury to another person.~~ *physical injury to another*
- 12 *person.*
- 13 (2) Willfully used force or violence upon the person of another,
- 14 except in self-defense.



(b) Possessed, sold, or otherwise furnished any firearm, knife, explosive, or other dangerous object, unless, in the case of possession of any object of this type, the pupil had obtained written permission to possess the item from a certificated school employee, which is concurred in by the principal or the designee of the principal.

(c) Unlawfully possessed, used, sold, or otherwise furnished, or been under the influence of, any controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind.

(d) Unlawfully offered, arranged, or negotiated to sell any controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind, and then either sold, delivered, or otherwise furnished to any person another liquid, substance, or material and represented the liquid, substance, or material as a controlled substance, alcoholic beverage, or intoxicant.

(e) Committed or attempted to commit robbery or extortion.

(f) Caused or attempted to cause damage to school property or private property.

(g) Stolen or attempted to steal school property or private property.

(h) Possessed or used tobacco, or any products containing tobacco or nicotine products, including, but not limited to, cigarettes, cigars, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel. However, this section does not prohibit use or possession by a pupil of his or her own prescription products.

(i) Committed an obscene act or engaged in habitual profanity or vulgarity.

(j) Unlawfully possessed or unlawfully offered, arranged, or negotiated to sell any drug paraphernalia, as defined in Section 11014.5 of the Health and Safety Code.

(k) Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties.

1 (l) Knowingly received stolen school property or private  
2 property.

3 (m) Possessed an imitation firearm. As used in this section,  
4 “imitation firearm” means a replica of a firearm that is so  
5 substantially similar in physical properties to an existing firearm  
6 as to lead a reasonable person to conclude that the replica is a  
7 firearm.

8 (n) Committed or attempted to commit a sexual assault as  
9 defined in Section 261, 266c, 286, 288, 288a, or 289 of the Penal  
10 Code or committed a sexual battery as defined in Section 243.4 of  
11 the Penal Code.

12 (o) Harassed, threatened, or intimidated a pupil who is a  
13 complaining witness or witness in a school disciplinary  
14 proceeding for the purpose of either preventing that pupil from  
15 being a witness or retaliating against that pupil for being a witness,  
16 or both.

17 (p) A pupil may not be suspended or expelled for any of the acts  
18 enumerated unless that act is related to school activity or school  
19 attendance occurring within a school under the jurisdiction of the  
20 superintendent or principal or occurring within any other school  
21 district. A pupil may be suspended or expelled for acts that are  
22 enumerated in this section and related to school activity or  
23 attendance that occur at any time, including, but not limited to, any  
24 of the following:

25 (1) While on school grounds.

26 (2) While going to or coming from school.

27 (3) During the lunch period whether on or off the campus.

28 (4) During, or while going to or coming from, a school  
29 sponsored activity.

30 (q) *A pupil who aids, abets, or encourages the infliction,*  
31 *attempted infliction, or threatened infliction of physical injury to*  
32 *another person may suffer suspension, but not expulsion, pursuant*  
33 *to the provisions of this section.*

34 (r) It is the intent of the Legislature that alternatives to  
35 suspensions or expulsion be imposed against any pupil who is  
36 truant, tardy, or otherwise absent from school activities.

37 SEC. 2. Section 241.2 of the Penal Code is amended to read:

38 241.2. (a) (1) When an assault is committed on school or  
39 park property against any person, the assault is punishable by a fine  
40 not exceeding five thousand dollars (\$5,000), or by imprisonment

1 in the county jail not exceeding one year, or by both ~~such~~ *that* fine  
2 and imprisonment.

3 (2) When a violation of this section is committed by a minor on  
4 school property, the court shall, in addition to any other fine,  
5 sentence, or as a condition of probation, order the ~~defendant to~~  
6 ~~attend anger management counseling at the expense of the~~  
7 ~~defendant's minor to attend counseling as deemed appropriate by~~  
8 ~~the court at the expense of the minor's~~ parents. The court shall take  
9 into consideration the ability of the ~~defendant's minor's~~ parents to  
10 pay, however, no ~~defendant minor~~ shall be relieved of attending  
11 ~~anger management~~ counseling because of the ~~defendant's minor's~~  
12 parents' inability to pay for the counseling imposed by this section.

13 (b) "School," as used in this section, means any elementary  
14 school, junior high school, four-year high school, senior high  
15 school, adult school or any branch thereof, opportunity school,  
16 continuation high school, regional occupational center, evening  
17 high school, technical school, or community college.

18 (c) "Park," as used in this section, means any publicly  
19 maintained or operated park. It does not include any facility when  
20 used for professional sports or commercial events.

21 SEC. 3. Section 243.2 of the Penal Code is amended to read:

22 243.2. (a) (1) Except as otherwise provided in Section  
23 243.6, when a battery is committed on school property, park  
24 property, or the grounds of a public or private hospital, against any  
25 person, the battery is punishable by a fine not exceeding five  
26 thousand dollars (\$5,000), or by imprisonment in the county jail  
27 not exceeding one year, or by both the fine and imprisonment.

28 (2) When a violation of this section is committed by a minor on  
29 school property, the court shall, in addition to any other fine,  
30 sentence, or as a condition of probation, order the ~~defendant to~~  
31 ~~attend anger management counseling at the expense of the~~  
32 ~~defendant's minor to attend counseling as deemed appropriate by~~  
33 ~~the court at the expense of the minor's~~ parents. The court shall take  
34 into consideration the ability of the ~~defendant's minor's~~ parents to  
35 pay, however, no ~~defendant minor~~ shall be relieved of attending  
36 ~~anger management~~ counseling because of the ~~defendant's minor's~~  
37 parents' inability to pay for the counseling imposed by this section.

38 (b) For the purposes of this section, the following terms have  
39 the following meanings:

(1) "Hospital" means a facility for the diagnosis, care, and treatment of human illness that is subject to, or specifically exempted from, the licensure requirements of Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code.

(2) "Park" means any publicly maintained or operated park. It does not include any facility when used for professional sports or commercial events.

(3) "School" means any elementary school, junior high school, four-year high school, senior high school, adult school or any branch thereof, opportunity school, continuation high school, regional occupational center, evening high school, technical school, or community college.

(c) This section shall not apply to conduct arising during the course of an otherwise lawful labor dispute.

~~SEC. 4. Section 245.4 is added to the Penal Code, to read:~~

~~245.4. (a) When an assault is committed against a minor on school property when school activities are being conducted, with a weapon or instrument other than a firearm, the assault shall be punished by imprisonment in the state prison for three, four, or five years, or in a county jail for not less than six months or more than one year, or by a fine not exceeding ten thousand dollars (\$10,000), or by both the fine and imprisonment.~~

~~(b) When an assault is committed against a minor and the person committing the assault knows or reasonably should know that the victim is traveling to or from school, with a weapon or instrument other than a firearm, the assault shall be punished by imprisonment in the state prison for three, four, or five years, or in a county jail for not less than six months or more than one year, or by a fine not exceeding ten thousand dollars (\$10,000), or by both the fine and imprisonment.~~

~~(c) When an assault is committed against a minor on school property when school activities are being conducted, with a deadly weapon or a firearm, the assault shall be punished by imprisonment in the state prison for four, six, or eight years, or in a county jail for not less than six months or more than one year, or by a fine not exceeding ten thousand dollars (\$10,000), or by both the fine and imprisonment.~~

~~(d) When an assault is committed against a minor and the person committing the assault knows or reasonably should know~~



1 that the victim is traveling to or from school, with a deadly weapon  
2 or a firearm, the assault shall be punished by imprisonment in the  
3 state prison for four, six, or eight years, or in a county jail for not  
4 less than six months or more than one year, or by a fine not  
5 exceeding ten thousand dollars (\$10,000), or by both the fine and  
6 imprisonment.

7 (e) “School” as used in this section, means any elementary  
8 school, junior high school, four-year high school, senior high  
9 school, opportunity school, continuation high school, evening  
10 high school, or other school where the students include minors.

11 SEC. 5. Section 246.3 of the Penal Code is amended to read:

12 246.3. (a) Except as provided in subdivision (b), or as  
13 otherwise authorized by law, any person who willfully discharges  
14 a firearm in a grossly negligent manner which could result in injury  
15 or death to a person is guilty of a public offense and shall be  
16 punished by imprisonment in the county jail not exceeding one  
17 year, or by imprisonment in the state prison.

18 (b) Except as otherwise authorized by law, any person who  
19 willfully discharges a firearm from a motor vehicle in a grossly  
20 negligent manner which could result in injury or death to a person  
21 is guilty of a public offense and shall be punished by imprisonment  
22 in the state prison for two, three, or five years.

23 SEC. 6.

24 SEC. 4. Section 729.6 is added to the Welfare and Institutions  
25 Code, to read:

26 729.6. If a minor is found to be a person described in Section  
27 602 by reason of the commission of an offense described in Section  
28 241.2 or 243.2 of the Penal Code, the court shall, in addition to any  
29 other fine, sentence, or as a condition of probation, order the minor  
30 to attend anger management counseling at the expense of the  
31 minor’s parents. The court shall take into consideration the ability  
32 of the minor’s parents to pay, however, no minor shall be relieved  
33 of attending anger management counseling because of the minor’s  
34 parents’ inability to pay for the counseling imposed by this section.

35 SEC. 7.

36 SEC. 5. The Department of Justice shall, commencing March  
37 1, 2002, conduct a 12-month long public awareness campaign  
38 using broadcast, print, or other appropriate media regarding the  
39 penalties for assaults and batteries on school property in general,  
40 and the requirement of anger management counseling pursuant to



1 this act. The operation of this section is contingent upon an  
2 appropriation by the Legislature for its purposes in the Budget Act  
3 of 2001.

4 ~~SEC. 8. No reimbursement is required by this act pursuant to~~  
5 ~~Section 6 of Article XIII B of the California Constitution because~~  
6 ~~the only costs that may be incurred by a local agency or school~~  
7 ~~district will be incurred because this act creates a new crime or~~  
8 ~~infraction, eliminates a crime or infraction, or changes the penalty~~  
9 ~~for a crime or infraction, within the meaning of Section 17556 of~~  
10 ~~the Government Code, or changes the definition of a crime within~~  
11 ~~the meaning of Section 6 of Article XIII B of the California~~  
12 ~~Constitution.~~

